

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Appeal of the Denial)
of the Application of Samantha Miller) ORDER NO. 63-2009
for a Kennel License Under the Columbia)
County Kennel Ordinance)

WHEREAS, on February 25, 2009, Samantha Miller (“Applicant”) submitted to Columbia County (“County”) an application for a new Kennel License under the provisions of the Columbia County Kennel Ordinance, Ordinance No. 2007-7, to operate a kennel with between 30 and 100 dogs on a rural residentially zoned (RR-5) site located at 57210 Old Mill Road near Scappoose, Oregon; and

WHEREAS, in response to the application submission, pursuant to Section 4.A of the Columbia County Kennel Ordinance an inspection of the proposed kennel property was conducted and a report on the inspection completed by Animal Control Officer Roger Kadell on March 2, 2009; and

WHEREAS, based on the Animal Control Officer’s inspection and report, in addition to other information on file with the County regarding existing activities at the site, the Applicant’s application was denied by Columbia County Land Development Service Director Todd Dugdale on June 11, 2009; and

WHEREAS, the Applicant appealed the Land Development Director’s decision denying the Kennel License application to the Columbia County Board of Commissioners (“Board”), in a letter from Applicant’s attorney dated June 19, 2009; and

WHEREAS, a hearing on the matter was scheduled for August 12, 2009 at or after 10:00 a.m. during the Board’s regularly scheduled meeting; and

WHEREAS, the Applicant’s attorney was provided notice of the scheduled hearing in a letter dated July 15, 2009; and

WHEREAS, a hearing was held on the matter during the Board’s regularly scheduled meeting on August 12, 2009, to hear testimony and receive evidence into a record developed in order to provide a full and fair inquiry into the matter; and

WHEREAS, at the hearing the Land Development Services Director provided a summary of his application review and conclusions to the Board, after which the hearing was opened to evidence and testimony from the Applicant, her attorney and other interested members of the public, and such evidence and testimony was received; and

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WHEREAS, the hearing was continued to August 13, 2009, at 9:00 a.m. to allow additional time to receive additional evidence and testimony, and to allow the Applicant an opportunity to provide rebuttal to the evidence and testimony submitted; and

WHEREAS, the continued hearing was held on August 13, 2009, where additional evidence and testimony was received; and

WHEREAS, at the request of the Applicant's attorney, the record was left open to the Applicant to August 27, 2009, to allow the Applicant an opportunity to review the evidence and testimony submitted and to provide final written rebuttal; and

WHEREAS, at the end of the public testimony portion of the continued hearing on August 13, 2009, the Applicant and her attorney were given an opportunity to rebut any of the evidence and testimony received, and such rebuttal was in fact received; and

WHEREAS, all of the evidence submitted to be included in the record in the matter was accepted and received into the record for this matter, a list of which is attached hereto as "Exhibit A" and incorporated herein by this reference; and

WHEREAS, after closing the hearing to further testimony, the Board continued the hearing to September 9, 2009, at 10:00 a.m. for deliberations, to allow the Board an adequate amount of time to consider all of the large amount of evidence and testimony received; and

WHEREAS, the Board did receive final written rebuttal from the Applicant's attorney in a letter dated August 27, 2009, which is listed in Exhibit A and is part of the record in this matter; and

WHEREAS, having reviewed the evidence and testimony received, the Board deliberated on the matter on September 26, 2009, and voted to tentatively deny the Applicant's appeal of the Land Development Director's denial of her application;

NOW, THEREFORE, based on the evidence submitted and received into the record on this matter, the Board of County Commissioners makes the following Findings of Fact and Conclusions of Law:

1. Section 4.A of the Columbia County Kennel Ordinance requires that, "[b]efore a new annual kennel license may be issued . . . [an applicant] must have an inspection and demonstrate compliance with the kennel standards established under Section 9 of this Ordinance." Section 9.A(1) of the Columbia County Kennel Ordinance adopts by reference the kennel facilities requirements of OAR 603-015-0040 and OAR 603-015-0045.

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2. OAR 603-015-0040(5) provides, "Waste Disposal: Provision for the removal and disposal of excreta, bedding, dead animals, shall be made. Disposal facilities shall be constructed and operated in such a manner as to minimize disease hazards, offensive odors, and vermin infestation" (emphasis added). One of the grounds upon which the Land Development Director denied the Applicant's application was for failure to comply with OAR 603-015-0040(5), based on ongoing waste disposal issues at the Applicant's property including complaints, warnings and citations for violation of the Columbia County Solid Waste Ordinance.
3. The Applicant's response to the Land Development Director's denial based on OAR 603-015-0040(5) was that the Columbia County Solid Waste Ordinance citations are still pending and therefore do not have bearing on the Applicant's Kennel License application. The citations and warnings issued by Code Enforcement Officer Robert Crain to Applicant for Solid Waste Ordinance violations are in the record before the Board. The citations and warnings are accompanied by statement summaries and photographs of the violations provided by the Code Enforcement Officer. The relevant provision of the Solid Waste Ordinance, Section 11.01(B) is included in the record for this matter. It states, in part, "Solid Waste Containers up to a capacity of three (3) cubic yards in size shall be equipped with fully closeable lids and shall be fully closed while in service, unless being immediately filled or emptied. All solid waste shall be placed in the approved containers, and the contents shall be prevented from dropping, sifting, leaking, being blown by the wind or otherwise escaping onto private property, public roads and highways."
4. The Board disagrees with the Applicant's assertion outlined above and finds that although the Code Enforcement Officer has discretion as to whether to issue citations and/or warnings in any given instance, it was not improper for the Land Development Services Director to rely on unrefuted record evidence showing Solid Waste Ordinance violations in determining that the Applicant was not in compliance with Section 9 of the Columbia County Kennel Ordinance and therefore not entitled to a Kennel License under the terms of Section 4.A of the same Ordinance. The record contains multiple warnings and citations (with citation summaries) of Solid Waste Ordinance violations, photographs showing violations of the Solid Waste Ordinance and neighbor complaints of such violations.
5. The Board finds that the Land Development Director's conclusion that the Solid Waste Ordinance violations discussed above constituted noncompliance with OAR 603-015-0040(5) in that the solid waste facilities were not being "operated" in such a manner "to minimize disease hazards, offensive odors, and vermin infestation" was proper. Accordingly, the Board finds that the Land Development Director's denial of the Applicant's Kennel License Application based on the failure to comply with OAR 603-015-0040(5) as incorporated by Section 9 of the Columbia County Kennel Ordinance was also proper.

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6. OAR 603-015-0040(1) provides, “Structural strength of facilities for housing pet animals shall be sound, in good repair to prevent injuries, contain the animal, and prevent the entrance of other animals” (emphasis added). Another basis upon which the Land Development Director denied the Applicant’s application was for failure to comply with OAR 603-015-0040(1), based on a longstanding issue involving a wastewater pipe emptying onto open ground on the Applicant’s property for several years. The Land Development Director concluded that the ongoing wastewater pipe issue constitutes a violation of OAR 603-015-0040(1) in that the kennel facility is not in good repair so as to prevent injuries by the wastewater outfall pouring onto the property.
7. The Applicant’s response to the Land Development Director’s denial based on OAR 603-015-0040(1) is similar to the previous violation: since the citation is still pending it should not have bearing on the Applicant’s Kennel License application. Based on the same reasoning provided above, the Board rejects that argument and finds that the citation issued for violation of DEQ wastewater regulations is relevant as it relates to the applicable criteria contained in Section 9 of the Columbia County Kennel Ordinance. The citation issued by the Code Enforcement Officer for the DEQ violation is in the record before the Board. The violation is discussed in the Animal Control Officer’s inspection report as well.
8. Additionally, the Applicant’s attorney submitted a “Pollution Complaint Report” from DEQ with the Applicant’s final written rebuttal, summarizing it as “an absolutely sparkling clean bill of health as to any possible or alleged environmental health quality issues on the property as to the animals.” However, upon reviewing the report the Board finds that the DEQ inspection appears to have been limited in scope and conducted solely to determine whether a “[d]og kennel with 50 dogs is washing the feces from these dogs into the creek”. The Board finds that although the report concluded that “no feces is washing into the creek” and that there was “no threat to river from feces”, the limited scope of the investigation does not address the basis upon which the Land Development Director concluded that the Applicant was not in compliance with OAR 660-015-0040(1), specifically, that wastewater is pouring onto open ground in violation of OAR 340-071-0130 (3) and (9), and therefore that the Applicant had not satisfied the requirements of Section 9 of the Columbia County Kennel Ordinance. The Board finds that the evidence in the record of the violation, including the 2009 citation, as well as a 2005 letter from the Code Enforcement Officer to the Applicant identifying the DEQ violation, were sufficient for the Land Development Director to conclude that there was a longstanding and ongoing DEQ wastewater violation.
9. Accordingly, the Board finds that the Land Development Director’s conclusion that the DEQ Wastewater violation discussed above constituted noncompliance with OAR 603-015-0040(1) in that the facilities are not being maintained so as to “prevent injuries, contain the animal, and prevent the entrance of other animals”, and that the Land Development Director’s denial of the Applicant’s Kennel License Application based on the failure to comply with OAR 603-015-0040(1) as incorporated by Section 9 of the Columbia County Kennel Ordinance was proper.

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10. The Land Development Director also denied the Application on the basis that the Applicant did not have land use approval for a Conditional Use/Home Occupation permit for operating her kennel in the RR-5 residential zone, in violation of Section 1507 of the Columbia County Zoning Ordinance. Section 11 of the Columbia County Kennel Ordinance requires that, in addition to the requirements of the Ordinance itself, kennel operators must comply with “any other applicable federal state or local laws regarding the keeping of animals or the operation of kennel facilities.” The Applicant applied for Conditional Use/Home Occupation land use approval and was denied such a permit by the Columbia County Planning Commission in 2004. The decision was not appealed and became final. The Applicant’s attorney pointed out that a citation for violation of the Section 1507 of the Columbia County Zoning Ordinance was recently dismissed, and stated in a written submission that the Applicant has only one record of a citation that was dismissed in 2005. However, the Board notes that the record contains the records of other citations not included with the submission from the Applicant’s attorney, including the 2006 conviction for operating a home occupation without a Conditional Use/Home Occupation permit in violation of Columbia County Zoning Ordinance Section 1507. In addition, the record contains a Diversion Agreement from the Columbia County Justice Court where the Applicant pled “No Contest” to the violation of Dog as a Public Nuisance (ORS 609.095). The Board finds that the Applicant is well aware of the plethora of citations, conflicts with neighbors and other problems surrounding her activities at her property and by representing otherwise is misleading.

11. The Board finds also that the Applicant has materially misrepresented the nature of the activities on her property, as well as the nature of the dogs kept there. On the Applicant’s Kennel License application form, under the section where applicants are asked to indicate which kind of kennel activities are anticipated at the property, the Applicant in this case crossed the entire section out and wrote, “N/A Personal Dogs equalling more than 30 ”. She also indicated on the application form that she intended to house between 30 and 100 dogs on the property. The Board notes that these representations are inconsistent with what the Applicant has stated regarding her activities at the subject property. For example, the Applicant testified during the Columbia County Zoning Ordinance violation trial (Case No.08LDS2772V) that all of the dogs on her property were her own personal dogs, are not adopted out, are the same fifty dogs that have remained on the property as long as the Applicant has owned the property and that the number of dogs never changes. An audio CD of the trial is in the record for this matter. The Applicant made similar representations on her Kennel License Application form, stating that all of the dogs kept on her property were “personal dogs”. At the hearing on this matter, however, the Board heard testimony from the Applicant and Applicant’s attorney that she adopts dogs out to interested parties but that, legally and technically speaking, all of the dogs remain her property due to “bailment” agreements that the Applicant has adopting parties sign, thereby excusing her from the need to obtain a Conditional Use/Home Occupation permit. As evidence the Applicant’s attorney submits what he purports to be the form “bailment” agreement.

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12. The Board finds this technical argument untenable when compared to the record evidence and rejects it outright, and finds that the record evidence overwhelmingly indicates that Applicant is in fact operating a home occupation in the RR-5 zone subject to the requirements of Section 1507 of the Columbia County Zoning Ordinance but without the proper land use approval. The Board finds that whether or not the Applicant is leasing or renting out dogs, or selling them or adopting them out to third parties, is irrelevant because the underlying activity and land use is the same, and the Board finds that the activity requires a Conditional Use/Home Occupation permit, which the record shows that the Applicant does not have. As additional support for its conclusions, the Board relies on the Stipulated Facts signed by the Applicant's attorney in the Columbia County Zoning Ordinance violation trial (Case No. 08LDS2772V) whereby the Applicant stipulates that she is an officer for a dog rescue organization "operating in Columbia County" and that she has 30 or more dogs on her property. The Board also relies on photographs taken by County staff from public rights-of-way and public parking lots of the Applicant unmistakably loading up multiple dogs from a dog adoption event at a Hillsboro Petsmart and transporting them directly to her home in Columbia County. The Board additionally relies on the immense number of internet dog adoption listing printouts included in the record on this matter, and the evidence and testimony received from (and very existence of) "volunteers" who assist the Applicant in maintaining the dogs and adopting them out.

13. Finally, the Board notes that Applicant asserts in her Complaint in the Washington County case (Washington County Case No. C085645CV) that the Applicant is operating a non-profit entity in Columbia County. Attached to the Complaint is a "Foster Agreement" that also indicates "Samantha and Jeri Miller - Representatives". This agreement is actually filled out by an adopting party and is significantly different in form, substance and appearance than the form submitted by the Applicant's attorney as the form the Applicant uses for adopting out dogs. The Board finds the form that was actually used and filled out to be a more credible indicator of the written agreement entered into between the Applicant and the adopting parties than the blank form submitted. It appears to the Board, in reviewing the record, that in some circumstances the Applicant wishes to claim that all of the dogs on her property are her personal pets, and at other times that the same dogs are part of a rescue kennel operated in Columbia County. When the Applicant submitted her original land use application, which is in the record, her kennel was already operational, and at the time she represented to the County that the activity at the property was a dog rescue kennel. After it was denied and when she was cited for operating a Home Occupation without the necessary permits she claimed that the dogs were all personal pets, similar to what is indicated on her Kennel License application. The Board finds the testimony of the Applicant and the Applicant's attorney, including the submission of the form bailment agreement purportedly used in all of the Applicant's transactions, not credible.

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14. The Applicant and her attorney have also indicated that she operates a domestic nonprofit organization and therefore should not be required to obtain a home occupation permit. However, there is a letter in the record from the Oregon Department of Justice indicating that the Applicant's 501(c)(3) status has been revoked, which is supported by an IRS Service Notice of Removal from the Cumulative List of Charitable Organizations, which is also in the record. In any event, the Board does not look at profitability or similar factors, but rather looks at the actual activity and land use taking place at the Applicant's property in finding unequivocally that the Applicant is operating a home occupation in the RR-5 Zone without a necessary Conditional Use/Home Occupation permit. Accordingly, the Board finds that the Land Development Director's denial of the Applicant's Kennel License application based on the failure to comply with Columbia County Zoning Ordinance Section 1507, as incorporated by Section 11 of the Columbia County Kennel Ordinance, was proper.

NOW, THEREFORE, based on the foregoing and the evidence submitted and received into the record on this matter, IT IS HEREBY ORDERED as follows:

1. The decision of the Land Development Services Director is hereby AFFIRMED and the Applicant's Application for a Kennel License is hereby DENIED, pursuant to the terms of the Columbia County Kennel Ordinance.

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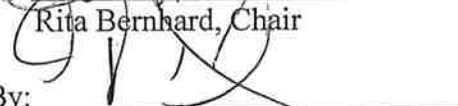
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2. In addition to the Board's Findings of Fact and Conclusions of Law contained in this Order, as additional support the Board hereby adopts the Land Development Director Staff Report to the Board of County Commissioners dated August 7, 2009, which is attached hereto as "Exhibit B" and is incorporated herein by this reference.

DATED this 16th day of September, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Rita Bernhard, Chair

By: 
Anthony Hyde, Commissioner

By: 
Earl Fisher, Commissioner

Approved as to form

By: 
Office of County Counsel

Legal Counsel's File -EXHIBIT 1

- (1) Board Communication from Land Development Services Director Todd Dugdale dated August 7, 2009 with the following attachments:
 - (1) Columbia County Kennel Ordinance No. 2007-7 and Order No. 34-2009
 - (2) Kennel License Application of Applicant Samantha Miller received February 25, 2009
 - (3) Inspection Report by Animal Control Officer Roger Kadell dated March 2, 2009
 - (4) Notice of Denial of Kennel License Application dated June 11, 2009
 - (5) Letter from Attorney Geordie Duckler Appealing Kennel License Denial dated June 19, 2009
- (2) Notice of Hearing dated July 15, 2009
- (3) Citation for Violation of Columbia County Solid Waste Ordinance issued by Code Enforcement Officer Robert Crain dated February 18, 2009
- (4) Citation for Violation of DEQ Wastewater Regulations issued by Code Enforcement Officer Robert Crain dated March 3, 2009
- (5) Notice of Scheduled September 14, 2009 Court Proceeding for DEQ Violation dated July 23, 2009
- (6) Notice of Scheduled September 14, 2009 Court Proceeding for Solid Waste Ordinance Violation dated July 23, 2009
- (7) Written Warning for Violation of Columbia County Solid Waste Ordinance issued by Code Enforcement Officer Robert Crain dated November 4, 2008
- (8) Photograph from Scott Groves dated November 4, 2008 showing Applicant's Dumpster
- (9) Photograph from Scott Groves dated January 1, 2009 showing Applicant's Dumpster
- (10) Email from Code Enforcement Officer Robert Crain with attached Photos dated February 17, 2009
- (11) Letter Opinion of Columbia County Circuit Court Judge Steven Reed for Case No. 08LDS2772V
- (12) Stipulated Facts between Samantha Miller and Columbia County for Case No. 08LDS2772V dated March 10 and 13, 2009, respectively
- (13) Letter from Scott Groves, Phil Werner, Michael and Bonnie Chappell, and Jim and Joanne Downey dated May 24, 2009
- (14) Citation for Violation of Columbia County Zoning Ordinance Conditional Use Home Occupation Requirements issued by Code Enforcement Officer Robert Crain dated November 6, 2008
- (15) Letter from Columbia County Circuit Court Judge Steven Reed dated June 26, 2009, with Attached Letter from Mike and Bonnie Chappell dated May 29, 2009
- (16) Photographs of Applicant Samantha Miller dated June 13, 2009 Loading Dogs into a Vehicle from an All Terrier Rescue Sale Event at the Hillsboro Petsmart and Transporting The Dogs Directly To and Unloading Them at the Applicant's Old Mill Road Property
- (17) Columbia County Circuit Court Judgment for Citation No. 06-2771C dated December 27, 2006 and Associated Court File Documents
- (18) Columbia County Planning Commission Denial for CU 05-03 with Associated Staff Report and Associated Documents

- (19) Minutes from the November 1, 2004 Columbia County Planning Commission Meeting
- (20) Excerpt of the October 1, 2004 Columbia County Planning Commission Meeting Minutes
- (21) Complaint Reports against Applicant Samantha Miller filed with the Columbia County Sheriff's Office dated May 10, 2007 to July 2, 2009
- (22) Complaint Reports against Applicant Samantha Miller filed with the Columbia County Animal Control dated September 17, 2005 to June 12, 2009
- (23) Complaint filed by Applicant Samantha Miller in Washington County Circuit Court dated September 30, 2008 with Associated Attached Pleadings
- (24) Letter from Oregon Department of Justice Investigator Steven Shirey dated February 10, 2009 with attachments
- (25) Internal Revenue Service Notice of Removal of All Terrier Rescue from Cumulative List of Charitable Organizations dated December 29, 2008
- (26) Columbia County Assessor's Report for 57210 Old Mill Road Property dated February 24, 2009
- (27) Secretary of State Corporation Division Listings for All Terrier Rescue dated June 6, 2009 and September 18, 2008
- (28) Email from Loren Davis to Alta Lynch dated November 1, 2008
- (29) Printouts of All Terrier Rescue Dog Listings on Petfinder.com and Adoptapet.com dated September 18, 2008 to August 3, 2009
- (30) Memorandum from Animal Control Officer Roger Kadell dated March 6, 2009
- (31) Columbia County Animal Control Incoming Animal Control Receipts from Applicant Samantha Miller dated March 2, 2004 to October 15, 2005
- (32) Columbia County Animal Control Memorandum Listing Issues at Old Mill Road Property with Attachments
- (33) Columbia County Justice Court Diversion Agreement for Case No. 08-V-0627 dated October 23, 2008
- (34) Columbia County Ordinance No. 2008-5
- (35) Columbia County Zoning Ordinance Sections 603 and 1507
- (36) Columbia County Circuit Court Audio CD of May 26, 2009 Oral Argument from Citation No. 08LDS2772V
- (37) Tapes (3) of November 1, 2004 Columbia County Planning Commission Meeting

Ex. 2 Land Development Services Notice to Kennel Owners dated August 4, 2009

Ex. 3 Notice of Kennel License Denial, Liana Viken, dated August 12, 2009

Ex. 4 Citation for Violation of Columbia County Solid Waste Ordinance issued by Code Enforcement Officer Robert Crain dated August 12, 2009, with attached Citation Summary and Photographs

Ex. 5 Photographs of Dumpster in Front of Applicant's Property dated February 17, 2009

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- Ex. 6 Letter from Attorney Geordie Duckler dated August 13, 2009, with attached "Adoption Agreement", Oregon Courts Real-Time (OJIN) Report, and Columbia County Animal Control Division Kennel Inspection Report
- Ex. 7 Letter from Roena J. Boehm dated August 12, 2009
- Ex. 8 Letter from Steve Kloepping dated August 11, 2009
- Ex. 9 Letter from John Trout dated August 12, 2009
- Ex. 10 Letter from Jerri Miller dated August 13, 2009
- Ex. 11 Letter from Attorney Geordie Duckler dated August 27, 2009, with attached DEQ "Complaint Pollution" report

BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT
MEETING DATE: August 12, 2009 Regular Session

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Todd Dugdale, Director of Land Development Services ^{JD}

SUBJECT: ANIMAL CONTROL PROGRAM
PUBLIC HEARING: APPEAL OF DENIAL OF KENNEL LICENCE APPLICATION
Samantha Miller Kennel, Samantha Miller, Owner/Applicant
57210 Old Mill Road, Scappoose, Oregon 97007

COLUMBIA COUNTY

DATE: August 7, 2009

AUG 07 2009

COUNTY COUNSEL

SUMMARY:

Samantha Miller applied for a new Kennel Licence under the provisions of Ordinance No. 2007-7 known as the "Columbia County Kennel Ordinance" on February 25, 2009. The application was for the operation of a kennel with between 30 and 100 dogs over 6mos of age in conjunction with a single family dwelling on a rural residentially zoned site located at 57210 Old Mill Road in the Scappoose area. The kennel site was inspected by Animal Control Officer, Roger Kadell on 3/2/2009 who filed a report on the same date.

Section 4A of the Kennel Ordinance provides, "Before a new annual kennel license may be issued under this Ordinance, the owner or operator must have an inspection and demonstrate compliance with the kennel standards established under Section 9 of this Ordinance." I reviewed the application, the Animal Control Officer's report, and files related to the site, and determined that there was substantial evidence showing that there were intermittent and on-going violations of applicable provisions of Section 9 of the Columbia County Kennel Ordinance and other State and local laws regarding the keeping of animals and the operation of kennel facilities on the subject site by owner/applicant Samantha Miller, including but not limited to the following:

- OAR 603-155-0040(5), which provides, "Waste Disposal: Provision for the removal and disposal of excreta, bedding, dead animals, shall be made. Disposal facilities shall be constructed and operated in such a manner as to minimize disease hazards, offensive odors, and vermin infestation." I concluded that Ms. Miller's ongoing issues with waste disposal, including multiple warnings and citations for violation of the Columbia County Solid Waste Ordinance, constitutes noncompliance with this requirement.
- OAR 603-015-0040(1), which provides, "Structural strength of facilities for housing pet animals shall be sound, in good repair to prevent injuries, contain the animal, and prevent the entrance of other animals." I concluded that Ms. Miller's longstanding DEQ wastewater violation (wastewater pipe emptying onto open ground on the property without correction for several years) constitutes noncompliance with this requirement.

- Columbia County Zoning Ordinance Section 1507, which requires Conditional Use/Home Occupation Permits for operating kennels in the RR-5 Zone. Ms. Miller applied for and was denied such a permit in 2004. Ms. Miller recently had a citation for this violation dismissed by claiming that she had 50 dogs (inconsistent with Kennel License Application) and all dogs on the property are her own personal pets and not for sale/adoption, and that any dogs sold/adopted out are kept elsewhere. However, since that dismissal the County has obtained photographic evidence, which is before the Board, of Ms. Miller loading dogs up at an "All Terrirer Rescue" adoption event at a Petsmart store in Hillsboro, driving them directly to the Old Mill Road property and unloading them, there. Prior to claiming that all of the dogs at the Old Mill Road property were her personal pets she was cited for violation of the Conditional Use/Home Occupation Permit provisions of the County's Zoning Ordinance and lost her court challenge in 2006. I concluded that Ms. Miller's longstanding use of the Old Mill Road property constituted a violation of the applicable provisions of the Columbia County Zoning Ordinance.
- Multiple other violations of applicable law, evidence of which is before the Board.

Based on these determinations and pursuant to Sections 4A and 11 of the Columbia County Kennel Ordinance (and with the direction provided to Staff via Section 1C of Board Order 34-2009), I sent a notice to Samantha Miller on June 11, 2009 denying her kennel licence application.

ATTACHMENTS:

1. Columbia County Kennel Ordinance No. 2007-7 and Board Order No. 34-2009.
2. Kennel Licence Application by Samantha Miller Received on February 25, 2009.
3. Inspection Report by Animal Control Officer dated 3/2/2009.
4. Notice of Denial of Kennel Licence dated June 11, 2009.
5. Letter from Geordie Duckler, Attorney for Samantha Miller Appealing the Kennel Licence Denial.

RECOMMENDATION

Based on the on the finding of intermittent and on-going violations of State and local laws by owner/operator Samantha Miller on the subject site, Staff recommends the Board deny the kennel licence application of Samantha Miller.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Adopting the)
Columbia County Kennel Ordinance)
_____)

ORDINANCE NO. 2007 - 7

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 2007 - 7. Exhibit "A", which is attached hereto and incorporated herein, shall be known as the "Columbia County Kennel Ordinance".

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, 609.015(1) and 609.100(3).

SECTION 3. PURPOSE.

The purpose of this ordinance is to adopt the Columbia County Kennel Ordinance.

SECTION 4. ADOPTION.

The Columbia County Kennel Ordinance, a copy of which is attached hereto, labeled Exhibit "A" and incorporated herein by this reference, is hereby adopted.

SECTION 5. REPEAL.

Ordinance Nos. 88-13 and 88-14 are repealed.

SECTION 6. REVIEW.

The Board of County Commissioners shall conduct a review of this Ordinance after eighteen months to evaluate its effectiveness and consider changes. As the Board deems appropriate, the Kennel Ordinance Task Force Committee may be reconvened for the review.

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SECTION 7. SEVERABILITY.

If any portion of this Ordinance, including Exhibit "A", is for any reason held invalid by any court of competent jurisdiction, such a portion shall be deemed as a separate, distinct, and independent portion and such holdings shall not affect the validity of the remaining portion of this ordinance.

DATED this 5th day of November, 2008.

Attest:

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: /s/ Jan Greenhalgh
Recording Secretary

By: /s/ Anthony Hyde
Chair

First Reading: 10/22/08
Second Reading: 11/05/08
Effective Date: 02/05/09

By: /s/ Joe Corsiglia
Commissioner

Approved as to form

By: /s/ Rita Bernhard
Commissioner

By: /s/ Spencer Q. Parsons
Office of County Counsel

EXHIBIT "A"

COLUMBIA COUNTY KENNEL ORDINANCE

SECTION 1. DEFINITIONS.

- A. As applied in this Ordinance, "Kennel" means:
- (1) Any property that houses ten (10) or more dogs over six (6) months of age.
 - (2) Any "Animal Pound" or "Animal Shelter" as defined by OAR 603-015-0025(1).
 - (3) Any "Boarding Kennel" as defined by OAR 603-015-0025(2).
 - (4) Any "Commercial Kennel" as defined by OAR 603-015-0025(3).
 - (5) Any "Grooming Parlor" as defined by OAR 603-015-0025(5).
 - (6) Any "Pet Shop" or "Animal Dealer" as defined by OAR 603-015-0025(7) that handles dogs.
- B. "Board" means the Board of County Commissioners for Columbia County, Oregon.
- C. "Owner" and "operator", as used in this Ordinance, do not include mortgagees, beneficiaries under a trust deed, or contract vendors under a land sale contract. The term "owner", however, includes landlords, lessors, lessees and contract vendees under a land sale contract.

SECTION 2. ANNUAL KENNEL LICENSE REQUIRED.

Except as provided by Section 11 below, it is unlawful to own property within Columbia County where a kennel is located, or to operate a kennel within Columbia County, without possessing a valid annual kennel license for the current calendar year; or, during January and February of any year, without possessing a valid annual kennel license for the current or previous calendar year.

SECTION 3. COMPLIANCE WITH KENNEL STANDARDS REQUIRED.

Except as provided by Section 11 below, it is unlawful to own property within Columbia County where a kennel is located, or to operate a kennel within Columbia County, that does not comply with the kennel standards established by this Ordinance.

SECTION 4. ANNUAL KENNEL LICENSES; RENEWAL; LATE FEE.

A. Before a new annual kennel license may be issued under this Ordinance, the owner or operator must have an inspection and demonstrate compliance with the kennel standards established under Section 9 of this Ordinance. Kennel licenses may be renewed without a new inspection, but if a kennel does not maintain compliance with the kennel standards established under Section 9 and the additional standards under Section 10, the kennel license may not be renewed, and/or may be subject to suspension or revocation under Section 11 of this Ordinance.

B. An annual kennel license issued pursuant to this Ordinance is valid from January 1 of the year in which it was issued until December 31 of that year.

C. The owner or operator of a facility or property where a kennel is located, and who has a valid kennel license for a calendar year, must renew the annual kennel license by March 1 of the following calendar year.

D. The owner or operator of a facility or property where a kennel is located, and who had a valid kennel license for the previous calendar year, must pay a late fee if the annual kennel license is not renewed by March 1 of the following calendar year.

E. The Animal Control Officer may, but is not required to, notify or remind owners and operators of kennels of the requirement to renew their annual kennel licenses.

SECTION 5. FIELD KENNEL LICENSE APPLICATIONS.

An owner or operator of a facility or property where a kennel is located who does not possess a valid annual kennel license for the current calendar year or the previous calendar year may request a field kennel license application, in lieu of a citation. In order to obtain a kennel license, the person must immediately complete the field kennel license application, pay the annual kennel license fee and the field kennel license surcharge. A kennel license will not be issued until the kennel is inspected and is found to be in compliance with the kennel standards established under Section 9 of this Ordinance.

SECTION 6. FIELD INSPECTIONS.

A. The Animal Control Officer or the Officer's designee may inspect any kennel located within Columbia County to verify compliance with the kennel standards established by this Ordinance. Kennel operators shall allow inspections during normal business hours (9 a.m. to 5 p.m., Monday through Saturday) upon the request of the Animal Control Officer or the Officer's designee.

B. The Animal Control Officer or Officer's designee will give 2 hours notice of a routine inspection to be conducted of a kennel operation. Routine inspection will be conducted when the kennel operator or representative is on-site and available to aid in the inspection process. No inspection will be conducted without the kennel operator or representative being physically present at the time of inspection. When a kennel operator or representative cannot be contacted to provide the two hour notice of a routine inspection, written notice may be posted conspicuously on the property where a kennel is located at least 48 hours before the routine inspection. The refusal to allow a field inspection by the Animal Control Officer or Officer's designee, after providing proper notice as provided in this Section, shall be a violation of this Ordinance subject to enforcement pursuant to Section 13 of this Ordinance. Each day a field inspection is refused shall be a separate offense.

C. An owner or operator of a facility or property where a kennel is located which is not in compliance with the kennel standards established by this Ordinance may request and immediately pay for a re-inspection within 48 hours, in lieu of a citation.

SECTION 7. ESTABLISHMENT AND ADJUSTMENT OF FEES.

A. The following fees are established:

Annual Kennel License Fee	\$175
Late Fee	\$100
Field Kennel License Surcharge	\$100
Re-Inspection Fee	\$100

B. The fees established by this Ordinance may be adjusted by ordinance, order or

resolution adopted at a public meeting by the Board.

SECTION 8. DOG LICENSES NOT REQUIRED.

An owner or operator of a facility or property where a kennel is located who possesses a valid, annual kennel license for the current calendar year (or, during January and February of any year, who possesses a valid annual kennel license for the current or previous calendar year) shall not be required to purchase or possess dog licenses for the dogs located, housed or boarded in the kennel.

SECTION 9. ESTABLISHMENT AND REVISION OF KENNEL STANDARDS.

A. The following kennel standards are established:

(1) Facilities. All facilities shall satisfy the requirements of OAR 603-015-0040 and OAR 603-015-0045.

(2) Standards of Care. All kennel operators shall satisfy the standards of care requirements of OAR 603-015-0050 and OAR 603-015-0055.

B. The Board may establish new or additional kennel standards, or revise these kennel standards by adoption of an Ordinance, order or resolution at a public meeting.

SECTION 10. ADDITIONAL REQUIREMENTS.

A. Records.

(1) All dogs six months of age or older housed in kennels must have on-site proof of current rabies vaccinations.

(2) All kennels must comply with the records requirements of OAR 603-015-0060.

B. A kennel license shall be conspicuously posted and openly displayed on the facility premises and the holder of a kennel license shall keep it readily available for inspection by the Animal Control Officer or Officer's designee.

C. All dogs on the property shall be maintained within kennels, or otherwise confined on the property, and not allowed to run free except when under direct control and supervision of kennel staff or the dogs' owners.

D. Solid Waste.

All kennels shall at all times provide proper disposal of animal waste by one of the following means:

(1) Service by a franchised solid waste hauler for the regular disposal of animal waste.

(2) Treatment by an installed on-site septic system approved by the County for handling the level of animal waste generated by the kennel operation.

(3) Self-haul of solid waste for regular disposal at a licensed solid waste transfer station or disposal facility with prior approval from the Animal Control Officer. Self-hauling kennel operations shall keep records of regular solid waste disposal available for

inspection by the Animal Control Officer. The Animal Control Officer may revoke the ability of a kennel to self-haul for the failure to adequately contain solid waste, failure to regularly dispose of solid waste, or for the failure to maintain or provide the Animal Control Officer with adequate records of regular solid waste disposal.

SECTION 11. MODIFICATION AND / OR REVOCATION.

A. The Board of County Commissioners may revoke or modify conditions of any kennel license at any time if the owner or operator, or any person subject to his or her direction or control, refuses or fails to comply with the provisions of this Ordinance, or any other applicable federal, state or local laws regarding the keeping of animals or the operation of kennel facilities.

B. The Board of County Commissioners shall hold a public hearing to consider whether to revoke a kennel license or modify conditions imposed, at which time the owner or operator and affected parties may appear and be heard.

C. Notice of said hearing shall be placed in the mail to the owner or operator not later than ten (10) days before the date of said hearing and shall be sent by certified or registered mail, return receipt requested.

D. A kennel license shall not be revoked unless substantial evidence is produced to show that the owner or operator is not in compliance with the provisions of this Ordinance, or any other applicable federal, state or local laws regarding the keeping of animals or the operation of kennel facilities. The hearing shall be conducted as a quasi-judicial hearing. Review of the revocation decision shall be solely and exclusively by Writ of Review as provided in ORS 34.010 through 34.100 in the Circuit Court of the State of Oregon for Columbia County, located in St. Helens, Oregon.

E. In lieu of revocation of a kennel license, the Board of County Commissioners may place reasonable additional restrictions and/or requirements upon a kennel operation. These requirements may include but are not limited to: limiting the numbers of dogs allowed to be maintained at the kennel, additional fencing or sound barrier requirements, requirements that the animals be enclosed within suitable housing during restricted hours, or other measures designed to eliminate the offending issues. A kennel operation whose kennel license is modified shall meet all requirements placed upon it by the Board within 30 days.

F. An owner or operator whose kennel license is revoked shall, within ten (10) days, humanely dispose of all dogs owned by him or her or shall otherwise obtain individual dog licenses for all dogs not disposed of. No part of the kennel license fee shall be refunded in such case.

SECTION 12. EXISTING KENNEL OPERATIONS.

A. Operators with current commercial kennel licenses issued pursuant to Ordinance No. 88-14 shall purchase new kennel licenses under this Ordinance upon the expiration of their current commercial kennel licenses and comply with the kennel standards provided in this Ordinance. Operators with current commercial kennel licenses shall continue to comply with the requirements of Ordinance No. 88-14 until the expiration of their current kennel licenses.

B. Operators with current non-commercial kennel licenses issued pursuant to Ordinance 88-13 may renew their non-commercial kennel licenses for the fee charged for a kennel license issued under this Ordinance for the first calendar year after the effective date of this Ordinance. After the first calendar year period, non-commercial kennel operators must purchase new kennel licenses as required by this Ordinance and comply with the kennel standards provided in this Ordinance.

of Ordinance No. 88-13 until the expiration of their current non-commercial kennel licenses.

SECTION 13. ENFORCEMENT.

This Ordinance is enforceable as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Interpretation of the)
Columbia County Kennel)
Ordinance)

ORDER NO. 34-2009

WHEREAS, on November 5, 2008, the Columbia County Board of Commissioners adopted Ordinance No. 2007-7, the Columbia County Kennel Ordinance (the "Kennel Ordinance"); and

WHEREAS, the Kennel Ordinance became effective on February 5, 2009; and

WHEREAS, the Kennel Ordinance established new standards for the issuance of dog kennel licenses by Columbia County and replaced the requirements of Ordinances Nos. 88-13 and 88-14; and

WHEREAS, questions have been raised by County staff as to the implementation of the Kennel Ordinance, including: the collection of fees; the process for denying applications; and the applicable laws and regulations when considering denials or license modifications and/or revocations; and

WHEREAS, the Board of Commissioners has broad authority to interpret its own enactments such as the Kennel Ordinance; and

WHEREAS, the Board of County Commissioners desires to issue this interpretation to resolve those questions and enable County staff to implement and apply the Kennel Ordinance in an understandable, uniform and consistent manner;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board adopts the following findings of fact and conclusions of law:
 - A. The Board finds that administration of a kennel licensing program with a kennel license application process by necessity means that some applications will be approved and others will be denied.

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- B. Many kennel operators in Columbia County licensed under the previous kennel ordinances operated in compliance with applicable laws, while others were in operation without kennel licenses or in violation of other applicable laws. The Board finds that the Kennel Ordinance contemplates County staff approving kennel license applications that meet the requirements of Sections 9 and 10 of the Kennel Ordinance, as well as any other applicable federal, state and local laws regarding the keeping of animals and the operation of kennel facilities.
 - C. Likewise, because an application process is in place, the Board finds that the Kennel Ordinance contemplates County staff denying kennel license applications that do not meet the requirements of Sections 9 and 10 of the Kennel Ordinance or any other applicable federal, state or local laws regarding the keeping of animals or the operation of kennel facilities, with applicant appeals to the Board of Commissioners. When an appeal is filed, the applicant will hold a hearing on the appeal in the typical quasi-judicial capacity and consistent with the requirements of modification and/or revocation hearings outlined in Section 11 of the Kennel Ordinance.
 - D. The Board finds that proper implementation of the Kennel Ordinance requires the Columbia County Animal Control Division to coordinate with other County departments when processing kennel license applications to ascertain compliance with all applicable laws regarding the keeping of animals and the operation of kennel facilities, including but not limited to Columbia County Land Development Services Department and the Columbia County Road Department.
 - E. The Board finds that the Kennel Ordinance does not intend the mere payment of any applicable kennel license fees to constitute the issuance of a kennel license. Applicants are not deemed licensed kennel operators until a license is issued by the Columbia County Animal Control Division. However, the Board finds that late fees do not apply to renewal applications received on or before March 1 of the renewal year, even though the County may not complete processing a given renewal application by March 1.
2. To further facilitate the uniform implementation of the Kennel Ordinance consistent with this Order, the Board adopts the following forms for use by kennel license applicants and County staff:
- A. Columbia County Kennel License Application, attached hereto as Exhibit 1 and incorporated herein by this reference.

- B. Columbia County Kennel License, attached hereto as Exhibit 2 and incorporated herein by this reference.
- C. Columbia County Interim Kennel License, attached hereto as Exhibit 3 and incorporated herein by this reference.

DATED this 10th day of June, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____

Chair

By: _____

Commissioner

By: _____

Commissioner

Approved as to Form

By: _____

Office of County Counsel



ANIMAL CONTROL DIVISION
2084 Oregon Street
St. Helens, Oregon 97051
Phone: (503) 397-3935 Fax: (503) 366-3990

COLUMBIA COUNTY KENNEL LICENSE APPLICATION

Kennel Licence applications must be fully completed. Submitted applications will be reviewed for completeness by Columbia County Animal Control prior to conducting inspections. Inspections will be conducted based on the information provided in the application. License eligibility determinations will be made after complete applications are submitted and inspections are conducted. Kennel Licence fees are due upon license application approval, and licenses will be issued when all fees are paid. Kennel Licenses issued do not constitute any land use approval required for operation of the kennel at the property indicated below.

Please Complete the Following:

KENNEL BUSINESS NAME (if any): _____

Owner Name: _____ Phone: _____

Cell: _____ Email: _____

Kennel Address: _____ City: _____ Zip: _____

Mailing Address: _____ City: _____ Zip: _____

Alternative/Emergency Kennel Contacts:

1. Name: _____ Phone: _____

2. Name: _____ Phone: _____

Which of the following kennel activities will occur at the kennel during the course of the year? Check all that apply.

- Holding dogs for disposition by gift, treatment and care, euthanasia, sale or exchange.
- Care or custody of dogs for boarding, training or similar purposes, for varying periods of time for profit or compensation.
- Breeding, buying, selling or bartering of dogs for profit or compensation.
- Bathing, clipping, pedicures or grooming of dogs for profit or compensation.
- Buying or receiving dogs, and thereafter exhibiting or offering for sale, or selling, trading or bartering such animals.

Please provide the following information. Circle "Yes" or "No" and fill in blanks where appropriate.

Is the kennel currently in operation? Yes No

If Yes:

-current number of dogs over 6 mos. of age kept at your kennel? _____

-maximum number of dogs over 6 mos. of age to be kept at your kennel? _____

If No, maximum number of dogs over 6 mos. of age anticipated to be kept? _____

Are all dogs kept at the kennel owned by the kennel operator? Yes No

If No, approximately what percentage are owned by the kennel operator? _____ %

Are any dogs kept at the kennel to be sold for compensation, traded or exchanged? Yes No

If Yes, number of dogs sold, traded or exchanged last year? _____

Did you breed any dogs last year? Yes No

If Yes, number of litters? _____

BY SIGNING AND SUBMITTING THIS APPLICATION, THE APPLICANT ACKNOWLEDGES AND AGREES TO COMPLY WITH THE TERMS OF THE COLUMBIA COUNTY KENNEL ORDINANCE, ORDINANCE NO. 2007-7. APPLICANT HEREBY AUTHORIZES INSPECTIONS IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 4 AND 6 OF THE COLUMBIA COUNTY KENNEL ORDINANCE.

ACCEPTANCE AND PROCESSING OF THIS KENNEL LICENSE APPLICATION DOES NOT CONSTITUTE THE ISSUANCE OF A KENNEL LICENSE BY COLUMBIA COUNTY. APPLICATIONS WILL BE PROCESSED BY COLUMBIA COUNTY STAFF AND, IF APPROVED, LICENSES WILL BE ISSUED AFTER KENNEL LICENCE FEES ARE PAID. SEPARATE LAND USE APPROVAL MAY BE REQUIRED. QUESTIONS MAY BE DIRECTED TO THE COLUMBIA COUNTY ANIMAL CONTROL DIVISION AT (503) 397-3935.

Applicant Signature: _____ Date: _____

SPACE BELOW THIS LINE RESERVED FOR COLUMBIA COUNTY

APPROVED

DENIED

Notes:

S

Outright Permitted Zone; or

Conditional Use Zone:

Conditional Use Approval Obtained.

Lacking Conditional Use Approval.



ANIMAL CONTROL DIVISION
2084 Oregon Street
St. Helens, Oregon 97051
Phone: (503) 397-3935 Fax: (503) 366-3990

License No.:

COLUMBIA COUNTY KENNEL LICENSE

[NAME]

IS HEREBY AUTHORIZED TO HOUSE AND MAINTAIN UP TO XX DOGS UNDER THE COLUMBIA COUNTY KENNEL ORDINANCE, ORDINANCE NO. 2007-7, AT THE FOLLOWING ADDRESS:

[ADDRESS]

AND CONSISTENT WITH THE FOLLOWING GUIDELINES:

1. The kennel is subject to and shall comply with all provisions of the Columbia County Kennel Ordinance, Ordinance No. 2007-7.
2. The kennel facility is approved to hold up to XX dogs. The kennel facility shall continue to meet the requirements established under Section 9(A)(1) of the Columbia County Kennel Ordinance.
3. The kennel operator shall comply with the standard of care requirements for dogs established under Section 9(A)(2) of the Columbia County Kennel Ordinance.
4. The kennel shall comply with all requirements established under Section 10 of the Columbia County Kennel Ordinance.
5. Solid waste shall be processed as follows:
6. This Kennel License does not constitute any land use approval required for operation of this kennel at the property indicated above.

THIS KENNEL LICENSE SHALL BE EFFECTIVE JANUARY 1, 2009, AND SHALL EXPIRE ON DECEMBER 31, 2009, AND IS SUBJECT TO MODIFICATION OR REVOCATION BY THE BOARD OF COUNTY COMMISSIONERS FOR THE FAILURE TO COMPLY WITH THE TERMS OF ITS ISSUANCE OR THE COLUMBIA COUNTY KENNEL ORDINANCE, ORDINANCE NO. 2007-7.

Roger Kadell, Columbia County Animal Control Officer

PURSUANT TO SECTION 10(B) OF THE COLUMBIA COUNTY KENNEL ORDINANCE, THIS KENNEL LICENSE MUST BE CONSPICUOUSLY POSTED AND OPENLY DISPLAYED ON THE KENNEL PREMISES, AND MUST BE READILY AVAILABLE FOR INSPECTION BY COLUMBIA COUNTY ANIMAL CONTROL.

COLUMBIA COUNTY



ANIMAL CONTROL DIVISION

2084 Oregon Street

St. Helens, Oregon 97051

Phone: (503) 397-3935 Fax: (503) 366-3990

License No.:

COLUMBIA COUNTY INTERIM KENNEL LICENSE

[NAME]

IS HEREBY AUTHORIZED TO HOUSE AND MAINTAIN UP TO XX DOGS UNDER THE COLUMBIA COUNTY KENNEL ORDINANCE, ORDINANCE NO. 2007-7, SECTION 12(B), AT THE FOLLOWING ADDRESS:

[ADDRESS]

AND CONSISTENT WITH THE FOLLOWING GUIDELINES:

- 1. The kennel may operate as a Non-Commercial Kennel as provided in Columbia County Ordinance No. 88-13, and shall continue to comply with all provisions of that Ordinance.
2. Before conducting any kennel activities at the kennel facility beyond those authorized under Columbia County Ordinance No. 88-13, the kennel operator shall first apply for and obtain a kennel license authorizing those activities pursuant to the Columbia County Kennel Ordinance, Ordinance No. 2007-7.
3. This Interim Kennel License does not authorize boarding services, grooming services or dog training services.
4. All dogs must be the property of the kennel operator.
5. This Interim Kennel License does not constitute any land use approval required for operation of this kennel at the property indicated above.

THIS INTERIM KENNEL LICENSE SHALL BE EFFECTIVE JANUARY 1, 2009, AND SHALL EXPIRE ON DECEMBER 31, 2009, AND IS SUBJECT TO MODIFICATION OR REVOCATION BY THE BOARD OF COUNTY COMMISSIONERS FOR THE FAILURE TO COMPLY WITH THE TERMS OF ITS ISSUANCE OR COLUMBIA COUNTY ORDINANCE NO. 88-13. AFTER DECEMBER 31, 2009, KENNEL LICENSES WILL NO LONGER BE ISSUED UNDER ORDINANCE NO. 88-13, AND ALL KENNELS MUST COMPLY WITH AND HAVE KENNEL LICENSES ISSUED PURSUANT TO THE COLUMBIA COUNTY KENNEL ORDINANCE, ORDINANCE NO. 2007-7.

Roger Kadell, Columbia County Animal Control Officer

PURSUANT TO SECTION 10(B) OF THE COLUMBIA COUNTY KENNEL ORDINANCE, THIS INTERIM KENNEL LICENSE MUST BE CONSPICUOUSLY POSTED AND OPENLY DISPLAYED ON THE KENNEL PREMISES, AND MUST BE READILY AVAILABLE FOR INSPECTION BY COLUMBIA COUNTY ANIMAL CONTROL.

I hereby certify that the foregoing is a true copy of the original thereof.

Jan Greenhalgh
Board Secretary
Columbia County

Received on 02-25-09

Lisa Beggs

COLUMBIA COUNTY



OREGON

Jan Greenhalgh

ANIMAL CONTROL DIVISION

2084 Oregon Street

St. Helens, Oregon 97051

Phone: (503) 397-3935 Fax: (503) 366-3990

COLUMBIA COUNTY KENNEL LICENSE APPLICATION

COLUMBIA COUNTY

TYPE OF KENNEL APPLICATION (check one):

FEB 26 2009

COUNTY COUNSEL

- New Kennel License.
- One-Time Renewal of Current Non-Commercial Kennel License under Ordinance 88-13 (2009 license year only).
- Current Licensed Non-Commercial Kennel requesting upgrade to Kennel License under Ordinance 2007-7.

KENNEL BUSINESS NAME (if any): Samantha Miller

Owner Name: Samantha Miller Phone: 503 543 7626

Cell: NONE Email: Hunterscrossing@Hotmail.com

Kennel Address: 57210 Old Mill Rd City: Scappoose Zip: 97056

Mailing Address: 18325 SW Division St City: Aloha Zip: 97007

Alternative/Emergency Kennel Contacts:

1. Name: Jen Miller Phone: 503 680 4263

2. Name: Geordie Duckler Phone: 503 546 8052

Which of the following kennel activities will occur at the kennel during the course of the year? Check all that apply.

- Holding dogs for disposition by gift, treatment and care, euthanasia, sale or exchange.
- Care or custody of dogs for boarding, training or similar purposes, for varying periods of time for profit or compensation.
- Breeding, buying, selling or bartering of dogs for profit or compensation.
- Bathing, clipping, pedicures or grooming of dogs for profit or compensation.
- Buying or receiving dogs, and thereafter exhibiting or offering for sale, or selling, trading or bartering such animals.

N/A Personal Dogs equalling more than

ATTACHMENT

Please provide the following information. Circle "Yes" or "No" and fill in blanks where appropriate.

Is the kennel currently in operation?

If Yes:

-current number of dogs over 6 mos. of age kept at your kennel? 30
-maximum number of dogs over 6 mos. of age to be kept at your kennel? 100

If No, maximum number of dogs over 6 mos. of age anticipated to be kept? _____

Are all dogs kept at the kennel owned by the kennel operator?

If No, approximately what percentage are owned by the kennel operator? Yes %

Are any dogs kept at the kennel to be sold for compensation, traded or exchanged?

If Yes, number of dogs sold, traded or exchanged last year? _____

Did you breed any dogs last year?

If Yes, number of litters? _____

Applicant Signature: Samantha Miller Date: _____

NOTE: ACCEPTANCE AND PROCESSING OF THIS KENNEL LICENSE APPLICATION, AND ASSOCIATED LICENSE FEE, DOES NOT CONSTITUTE THE ISSUANCE OF A KENNEL LICENSE BY COLUMBIA COUNTY. APPLICATIONS WILL BE PROCESSED BY COLUMBIA COUNTY STAFF AND, IF APPROVED, APPLICANTS WILL RECEIVE LICENSES IN THE MAIL. IF AN APPLICATION IS NOT APPROVED, COLUMBIA COUNTY WILL MAIL APPLICANTS LICENSE FEE REFUNDS. QUESTIONS MAY BE DIRECTED TO THE COLUMBIA COUNTY ANIMAL CONTROL DIVISION AT (503) 397-3935.

SPACE BELOW THIS LINE RESERVED FOR COLUMBIA COUNTY

APPROVED

DENIED

Notes:

By letter dated June 11, 2009.

LDS

- Outright Permitted Zone; or
- Conditional Use Zone:
 - Conditional Use Approval Obtained.
 - Lacking Conditional Use Approval.

0000
COLUMBIA COUNTY



ANIMAL CONTROL DIVISION
2084 Oregon Street
St. Helens, Oregon 97051
Phone: (503) 397-3935 Fax: (503) 366-3990

KENNEL INSPECTION REPORT

Date: 03/02/2009 Time: Start: 11 AM Finish: 12:10

Kennel name : Samatha Miller Operator: Samatha Miller

Address: 57210 Old Mill Road, Scappoose Oregon 97056

Facilities: 603-015-0040 / 0045 / 0050

- (1) Structural strength of facilities for housing pet animals shall be sound, in good repair to prevent injuries, contain the animal, and prevent the entrance of other animals.

Some minor snow damage to canopy covers. Is in process of repairing as weather permits.

- (2) Electric power and a potable water supply shall be available. Lighting, artificial and natural, shall be of good quality and well distributed.

No issues.

- (3) Isolation – Facilities must be available for the isolation and treatment of pet animals suspected of harboring communicable diseases.

Had isolation area. One dog in isolation due to behavior issues and not illness.

- (4) Storage – Facilities shall be provided for the storage of equipment and to protect food and bedding against vermin infestation and contamination.

No issues with food storage.

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- (5) Waste Disposal: Provision for the removal and disposal of excreta, bedding, dead animals, shall be made. Disposal facilities shall be constructed and operated in such manner as to minimize disease hazards, offensive odors, and vermin infestation.

Dumpster on site. Neighbor has raised issue of smell from dumpster. Noted top was closed and no overflow at this time.

- (5A) Waste Disposal: Service by franchised solid waste hauler, on site approved septic system or adequate receipts to demonstrate self disposal of waste.

Using garbage hauling service.

- (6) Facilities for wash rooms: Basins and sinks shall be provided for cleanliness of caretakers, and sanitization of feeding utensils.

Had sink set up. Only issue was waste water for sink, washing machine and dog wash area drains out onto the back cemented area and not into an approved septic area. Second wash area was noted during prior visits to Grove residents inside the older kennel. At the time of the visit the water was draining out a pipe onto the ground.

This information will be referred to LDS for review.

- (7) Ventilation: Provisions and facilities for adequate ventilation to insure the exhausting of stale air, excess humidity, and kennel odors, shall be made and maintained.

No issues

- (8) Shall offer shade against sun, shelter against rain, snow, and wind; sufficient protection for pet animals against cold and inclement weather, and adequate drainage to eliminate excessive water in the runs. Adequate space should be allowed in outside houses and cages to permit the animal to stand, turn around, and lie down, without obstructing freedom of movement.

Inside and outside areas available to dogs.

- (9) Pet animals shall be fed a food that is palatable, wholesome, and meets minimal daily nutritional requirements. Ground or kennel surface feeding is not permitted. Feed pans and receptacles shall be washed and sanitized after each feeding. Self feeders will be cleaned and sanitized as often as necessary to prevent molding or deterioration of the contents.

No issues.

- (10) Fresh potable water will be offered at least twice daily and more often is weather conditions warrant. More water is required in hot weather.

No issues

- (11) Sanitation: Excreta will be removed from runs, cages, pens, daily and more often if necessary. Runs and enclosures will be sanitized once weekly by cleaning and using a safe and effective disinfectant and changing soil or litter as often as it becomes soiled. Premises will be kept clean and free from trash and facilities will be maintained in good order to prevent injury to animals and offer them proper protection against inclement weather.

Cleaning fluids meet requirement. Past concern from neighbor on outside run draining into river. DEQ reports indicate adequate foliage and ground space to remove contaminants. Issue with laundry drainage will be referred to LDS for review.

- (12) Sick animals. Pet animals that are quarantined or under treatment for communicable diseases shall be isolated in such place that healthy animals are not exposed.

- (13) Importation : Check to see if any animals transported into state from another state.

Check for health permit and vaccination records each animal.

ORS 596.341 Examination /permit req for entry

603-011-0255 Permit required for importation

603-011-0370 Importation of dogs and cats.

Had health information for out of state animals

ADDITIONAL REQUIREMENTS.

A. Records 603-015-0060

- (14) All dogs housed in the kennels must have on-site proof of current rabies vaccinations upon reaching six months of age.

Had several records on display

- (15) A record of each sale shall be maintained by the owner or operator of each boarding kennel, commercial kennel, or pet shop, animal pound, or animal shelter, for a minimum period of 12 months after date of sale or transfer of a pet animal and shall include date of sale, age, breed, indication of sex of animal sold, name and address of the purchaser, source, and breeder.

Indicated not selling dogs, all personal dogs for Ms. Miller.

- (16) If records of prophylactic medication are used in advertizing or are furnished the purchaser or person acquiring a pet animal, specific information regarding type, amount, and date of prophylactic medication shall be kept by the owner or operator of each boarding kennel,

commercial kennel, pet shop, animal pound, or animal shelter, and shall become a part of the sales record.

- (17) All dogs on the property shall be maintained within kennels, or otherwise confined on the property, and not allowed to run free except when under direct control and supervision of kennel staff or the dogs' owners.

Several fenced areas to contain dogs.

Routine Inspection Yes / No

Investigative Inspection Yes / No

Deficiencies:

Only issues was with waste water disposal. This issue is however referred to LDS for review.

Reinspection: Yes / No

Paid Yes / No

Citation issued Yes / No

Prior Violations: Yes / No

Referral to Board of Commissioners: Yes / No

Completed By: *R. H. Miller*

COPY

COLUMBIA COUNTY



OREGON

**DEPARTMENT OF LAND DEVELOPMENT
SERVICES**

Animal Control Program

Columbia County Courthouse, 230 Strand Street
St. Helens, Oregon 97051
Phone: (503)397-7207 Fax: (503)366-3902
Todd.Dugdale@co.columbia.or.us

June 11, 2009

Samantha Miller
57210 Old Mill Road
Scappoose, Oregon 97056

**RE: NOTICE OF DENIAL OF KENNEL LICENCE APPLICATION
57210 Old Mill Road in Scappoose, Oregon**

This is to notify you that your application for a Columbia County Kennel Licence under Ordinance 2007-7 is denied. Your kennel licence application has been denied due to intermittent and on-going violations of applicable State and local laws regarding the keeping of animals and the operation of kennel facilities.

You are entitled to appeal this decision in writing to the Board of Commissioners at the address above within 10 days of the date of this notice.

Sincerely,

A handwritten signature in black ink that reads "Todd Dugdale".

Todd Dugdale, Director

cc Roger Kadell, Animal Control Officer

ATTACHMENT

JUN 22 2009

GEORDIE DUCKLER, J.D., PH.D.
Licensed in Oregon and California

THE ANIMAL LAW PRACTICE

5331 SW MACADAM AVE., SUITE 299
PORTLAND, OREGON 97239
GEORDIED@ANIMALLAWPRACTICE.COM

LAND DEVELOPMENT
SERVICES
PHONE: 503.546.8052
FAX: 503.241.5553

June 19, 2009

VIA U.S. AND CERTIFIED MAIL (RRR) AND FAX (503) 397-7243
Tom Hyde, Commissioner
Columbia County Board of Commissioners
Columbia County Courthouse, Room 331
230 Strand Street
St. Helens, Oregon 97051

VIA U.S. AND CERTIFIED MAIL (RRR) AND FAX (503) 366-3902
Todd Dugdale, Director
Department of Land Development Services
Animal Control Program
Columbia County Courthouse
230 Strand Street
St. Helens, Oregon 97051

Re: Samantha Miller
Columbia County kennel license

Dear Sirs:

I represent Ms. Samantha Miller. Please consider this letter to constitute a formal appeal of the decision to deny and/or revoke her kennel license as stated in Mr. Dugdale's letter to her dated June 11, 2009, a copy of which is attached. Ms. Miller requests a hearing on that decision.

In addition, please immediately confirm that the Board of County Commissioners complied with Columbia County Kennel Ordinance 2007-7 in that it:

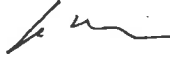
- a. "revoked or modified conditions of any kennel license" based on Ms. Miller's "refus[al] or fail[ure] to comply with the provisions" of the ordinance or any applicable federal, state, or local law regarding the keeping of animals or the operation of kennel facilities;
- b. held a public quasi-judicial hearing to consider whether to revoke the license under those conditions;
- c. properly notified Ms. Miller about that hearing and allowed her a reasonable opportunity to appear and be heard by sending her notice of that hearing in the mail not later than ten days before the date of the hearing by certified or registered mail, return receipt requested; and,
- d. proved at that hearing by "substantial evidence... [showing that she was] not in compliance with the provisions of the ordinance, or any other applicable federal, state or local laws regarding the keeping of animals or the operation of kennel facilities".

To the extent that some sort of hearing has apparently already been held without Ms. Miller's knowledge, awareness, or participation, and to that end, I request to be sent immediately: a) a copy of the registered letter that had been sent her about that hearing; b) the minutes, record, or transcript of the hearing itself; and c) the final written determination reached at that hearing along with a description of the substantial evidence produced in its support.

ATTACHMENT

By this letter, Ms. Miller expressly reserves and does not waive her right to seek review of any revocation decision by writ of review in the Columbia County Circuit Court per ORS 34.010 et. seq. Thank you for your time and assistance in this matter. Please feel free to contact my office with any questions, comments and/or concerns.

Sincerely,



Geordie Duckler
Attorney for Samantha Miller

Enclosure
cc: client

COLUMBIA COUNTY



OREGON

**DEPARTMENT OF LAND DEVELOPMENT
SERVICES**

Animal Control Program

Columbia County Courthouse, 230 Strand Street
St. Helens, Oregon 97051

Phone: (503)397-7207 Fax: (503)366-3902

Todd.Dugdale@co.columbia.or.us

June 11, 2009

certified Mail # 7008 1300 0000 4817 2528

Samantha Miller
57210 Old Mill Road
Scappoose, Oregon 97056

**RE: NOTICE OF DENIAL OF KENNEL LICENCE APPLICATION
57210 Old Mill Road in Scappoose, Oregon**

This is to notify you that your application for a Columbia County Kennel Licence under Ordinance 2007-7 is denied. Your kennel licence application has been denied due to intermittent and on-going violations of applicable State and local laws regarding the keeping of animals and the operation of kennel facilities.

You are entitled to appeal this decision in writing to the Board of Commissioners at the address above within 10 days of the date of this notice.

Sincerely,

Handwritten signature of Todd Dugdale in cursive.

Todd Dugdale, Director

cc Roger Kadell, Animal Control Officer